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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

United States Playing Card Company, The,

Opposer,

v.

British Broadcasting Corporation, The,

Applicant

Proceeding No. 91158776

TRADEMARK TRIAL AND APPEAL BOARD
FEB -9 P 3:53
U.S. PATENT & TRADEMARK OFFICE

**MOTION TO DISMISS
AND FOR CORRECTED PUBLICATION**

Applicant hereby moves this honorable Board to dismiss the opposition and to re-publish the application with the provisos that (1) Opposer may refile the Notice of Opposition to the re-published application and (2) Applicant may assert against any such refiled Notice of Opposition all defenses which Applicant may assert to the present Notice of Opposition. The basis for this Motion is that there are material errors in the original publication which prevent this honorable Board from obtaining subject matter jurisdiction over a substantial portion of the allegations in the present Notice of Opposition. Of primary significance, the present Notice of Opposition is against Class 16 of the opposed application, but Class 16 was not in the publication of the application.

The following errors by the U.S. Patent and Trademark Office appear in the publication of the presently opposed application on pages TM 5 through TM 8 of the *Official Gazette* dated December 10, 2002:

- 1.) Class 16 is missing.
- 2.) In Class 9, line 13, the following is missing: "ACCESSING, REVIEWING, INTERACTING AND WITH RETRIEVING".
- 3.) In Class 9, line 24, a semi-colon is missing.

02-09-2004

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Applicant notes that Applicant's undersigned attorney filed on December 24, 2002, a document titled "Request for Corrected Publication" which denominates the errors listed above. Submitted herewith is a copy of that document, a copy of the receipt card for filing the same, and a copy of the publication of the application on December 10, 2002. Applicant has never received any acknowledgment or action from the U.S. Patent and Trademark Office based on this "Request for Corrected Publication".

The publication of an application for registration of a mark on the Principal Register, is a statutory requirement: "the Director shall cause the mark to be published in the Official Gazette of the Patent and Trademark Office". 15 USC §1062(a). The errors in the publication of the presently opposed application as described above, are clear errors by the Director in carrying out the requirements of the statute.

Opposer alleges "that Applicant should be denied registration of the BEEB mark in Classes 016 and 028 for which it has applied." See paragraph 16 of the Notice of Opposition. This Board lacks subject matter jurisdiction over an opposition against a Class which was not in the publication of the application. The present motion raising subject matter jurisdiction is appropriate at this time. Federal Rule of Civil Procedure 12(b)(1).

There is an additional benefit in dismissing the present opposition as requested above, and allowing the Director to re-publish the application with the correct information. This benefit is that

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Opposer and Applicant are seeking to resolve this dispute by settlement, and in the interim between the dismissal of the present opposition and the corrected re-publication of the application, the parties may be able to resolve their differences.

Applicant submits that the present motion should be granted. In the alternative, if this Board declines to dismiss the present opposition for the reasons stated above, then Applicant respectfully submits that Applicant should be allowed an additional period of at least 30 days after the date of the Order denying the present Motion, in which Applicant may respond to the Notice of Opposition.

Date: February 9, 2004

BACON & THOMAS, PLLC
625 Slaters Lane, Fourth Floor
Alexandria, Virginia 22314-1176
Phone: 703-683-0500
Fax: 703-683-1080
E-mail: mail@baconthomas.com
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Respectfully submitted,



Thomas J. Moore
Attorney for Applicant

PENDING TRADEMARK APPLICATION

BACON & THOMAS, PLLC, 625 Slaters Lane, Fourth Floor, Alexandria, Virginia 22314-1176
Phone: (703) 683-0500, Fax: (703) 683-1080, email: mail@baconthomas.com

Appl. No.:	75/341,906		
Mark:	BEEB		
Our Ref:	TJM/BEEB221USA	Return to:	ADT
THE STAMP HEREON OF THE U.S. PATENT AND TRADEMARK OFFICE ACKNOWLEDGES RECEIPT OF THE FOLLOWING:			
<ul style="list-style-type: none"><input type="checkbox"/> Amendment<input type="checkbox"/> Response to Official Action<input type="checkbox"/> Cover Letter<input type="checkbox"/> Check for \$<input type="checkbox"/> Amendment to Allege Use<input type="checkbox"/> Request to Divide<input type="checkbox"/> Notice of Appeal<input type="checkbox"/> Certified Copy<input checked="" type="checkbox"/> REQUEST FOR CORRECTED PUBLICATION			
FILE IN TRADEMARK MAIL ROOM			

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TRADEMARK FEE PROCESS
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2002 DEC 24 A 11: 05
US PATENT &
TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Serial No.:	75341906
Application Filing Date:	August 15, 1997
Mark:	BEEB
Applicant:	The British Broadcasting Corporation
Attorney's Reference:	TJM/BEEB221USA

REQUEST FOR CORRECTED PUBLICATION

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Madam:

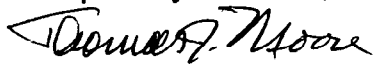
Applicant requests re-publication of the application after correction of the following errors by the U.S. Patent and Trademark Office in the first publication as shown on the attached copy of pages TM 5-8 of the Official Gazette dated December 10, 2002:

- 1.) Class 16 is missing.
- 2.) In Class 9, line 13, the following is missing: "ACCESSING, REVIEWING, INTERACTING AND WITH RETRIEVING".
- 3.) In Class 9, line 24, a semi-colon is missing.

BACON & THOMAS, PLLC
625 Slaters Lane, Fourth Floor
Alexandria, Virginia 22314-1176
Phone: (703) 683-0500
E-mail: mail@baconthomas.com
Date: December 24, 2002

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Respectfully submitted,



Thomas J. Moore
Applicant's Attorney

DEC 10, 2002

U.S. PATENT AND TRADEMARK OFFICE

TM 5

SN 75-318,397, THE TRUSTEES OF THE ASCOT AUTHORITY, A UNITED KINGDOM TRUST, THE TRUSTEES COMPRISING: PEREGRINE ANDREW MORNAY CAVENDISH MARQUESS OF HARTINGTON CBE; MALCOLM BRIAN JOHNSON KIMMINS, AND JONATHAN ROGER WEATHERBY, ALL UNITED KINGDOM CITIZENS, BERKSHIRE, SL5 7JN, UNITED KINGDOM, FILED 7-2-1997.

ROYAL ASCOT

CLASS 9—ELECTRICAL AND SCIENTIFIC APPARATUS

FOR COMPUTERS; COMPUTER PROGRAMS FOR DATABASE MANAGEMENT; TELEVISIONS; RADIOS; PHOTOGRAPHIC AND VIDEO CAMERAS AND CARRYING CASES THEREFOR; VIDEO AND AUDIO CASSETTE RECORDERS; ELECTRONIC APPARATUS AND EQUIPMENT FOR HORSE RACING AND RIDING AND GAMBLING, NAMELY, COMPUTER TERMINALS AND TELEPHONE, AUDIO AND VIDEO RECEIVERS FOR SENDING AND RECEIVING INFORMATION RELATING TO BETTING AND PLACING BETS; VIDEO GAME MACHINES FOR USE WITH TELEVISIONS AND VIDEO OUTPUT GAME MACHINES FOR USE WITH TELEVISIONS; COMPUTER GAME CARTRIDGES AND CASSETTES; VIDEO GAME CARTRIDGES AND CASSETTES; COMPUTER GAME EQUIPMENT CONTAINING MEMORY DEVICES, NAMELY COMPUTER DISK AND COMPUTER GAME PROGRAMS; TELEPHONES; BINOCULARS; TELESCOPES; CALCULATORS; SUNGLASSES; SPECTACLES; PRERECORDED COMPUTER PROGRAMS AND MULTIMEDIA SOFTWARE CONTAINING ELECTRONIC DATABASES RECORDED ON COMPUTER DISCS AND CD ROM'S, PHONOGRAPH RECORDS, AND PRERECORDED VIDEO AND AUDIO CASSETTES, ALL FEATURING INFORMATION AND ENTERTAINMENT RELATED TO HORSE RACING AND RIDING, GAMING AND GAMBLING, TRAVEL, FASHION, AND BRITISH HISTORY AND CULTURE; ELECTRONIC PUBLICATIONS RECORDED ON READ ONLY MEMORY COMPACT DISCS, AUDIO VISUAL COMPACT DISCS, MAGNETIC DISCS AND FLOPPY DISCS, NAMELY, BOOKS, MAGAZINES AND MANUALS FEATURING TOPICS RELATED TO HORSE RACING AND RIDING, GAMING AND GAMBLING, TRAVEL, FASHION, AND BRITISH HISTORY AND CULTURE; MAGNETICALLY ENCODED DEBIT CARDS AND MAGNETICALLY ENCODED PRE-PAID TELEPHONE CALLING CARDS; PROTECTIVE CLOTHING, NAMELY, HARD HATS, HORSE RACING AND RIDING HELMETS, AND GOGGLES, HARD HATS; PROTECTIVE HORSE RACING AND RIDING HATS (U.S. CLS. 21, 23, 26, 36 AND 38).

CLASS 16—PAPER GOODS AND PRINTED MATTER

FOR STATIONERY, GREETING CARDS, NOTE-CARDS, WRITING PADS, STATIONARY WRITING PAPER AND ENVELOPES; STATIONERY, LEATHER, AND WOOD; SERIES OF FICTION AND NON-FICTION BOOKS RELATED TO HORSE RACING AND RIDING, TRAVEL, FASHION, BRITISH HISTORY AND CULTURE; DIARIES, ALMANACS; BOOKMARKS; PLAYING CARDS; PAPERWEIGHTS; CALENDARS; POSTERS; PRINTED PAPER ADVERTISING SIGNS AND BANNERS; MOUNTED AND UNMOUNTED PHOTOGRAPHS; COLLECTORS CARDS AND TRADING CARDS; STICKERS AND STICKER ALBUMS; BUMPER STICKERS; ADDRESS BOOKS; ORGANIZERS FOR STATIONERY USE AND PERSONAL PLANNING; WRITING PADS AND PRINTING BLOCKS; MAPS; PRINTING SETS COMPRISED PRIMARILY OF RUBBER STAMPS AND CRAFT PAPER; DRAWING SETS COMPRISED PRIMARILY OF DRAWING PENCILS, PAPER AND BOARDS; PAINTING SETS; CATALOGS IN THE FIELD OF HORSERACING, RIDING AND GAMBLING ON HORSERACING; PRINTED PLANS AND CHARTS; DRAWING RULERS; PENS; PLASTIC BAGS FOR HOUSEHOLD USE; GIFT WRAPPING PAPER; ART DRAWINGS, PAINTINGS, AND ART PRINTS; CREDIT CARDS (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

CLASS 18—LEATHER GOODS

FOR ARTICLES MADE FROM LEATHER, IMITATION LEATHER, AND FABRIC, NAMELY, LUGGAGE, ALL PURPOSE ATHLETIC BAGS, GARMENT BAGS FOR TRAVEL, TOTE BAGS, CARRY-ON BAGS, TRAVEL HOLDALLS, RUCKSACKS, BACKPACKS, WALLETS, PURSES, HANDBAGS, KEYCASES, AND BUSINESS CARD HOLDERS; UMBRELLAS; WALKING STICKS AND WALKING STICKS WITH COLLAPSIBLE SEATS; WHIPS, SADDLES, AND HARNESSSES; HORSE COVERING BLANKETS (U.S. CLS. 1, 2, 3, 22 AND 41).

CLASS 25—CLOTHING

FOR CLOTHING, NAMELY HEADWEAR, FOOTWEAR, T-SHIRTS, SWEATSHIRTS, JACKETS, JERSEYS, SWEATERS, SHIRTS, SKIRTS, DRESSES, GOWNS; BLOUSES, POLO SHIRTS, SUITS, JUMPERS, CARDIGANS, PANTS, TROUSERS, SWEATPANTS, TIES, SCARVES, RAINWEAR, RAINCOATS, SOCKS, HARD HATS, SUNVISORS, HEADBANDS, SWEATBANDS, SUSPENDERS, PAJAMAS, RIDING TOPS AND BREECHES, PULLOVERS, TRACKSUITS AND TRAINING SUITS, GLOVES AND DRIVING GLOVES; AND BOOTS; NON-PROTECTIVE HORSE RACING AND RIDING HATS (U.S. CLS. 22 AND 39).

CLASS 28—TOYS AND SPORTING GOODS

FOR GAMES, TOYS, AND PLAYTHINGS, NAMELY BALLOONS, ACTION FIGURES AND ACCESSORIES THEREFOR, BOARDGAMES, PUZZLES, DOLLS, TEDDY BEARS AND STUFFED TOY ANIMALS; SPORTS BALLS, BALLS FOR PLAYING GOLF, CRICKET, FIELD HOCKEY, RACQUETBALL, RUGBY, SOCCER, SQUASH, AND TENNIS; GLOVES FOR PLAYING GOLF, HAND HELD UNIT FOR PLAYING ELECTRONIC COMPUTER GAMES, AND STAND ALONE VIDEO GAME MACHINES, NAMELY, ARCADE GAME MACHINES; HORSE RACING AND RIDING GLOVES (U.S. CLS. 22, 23, 38 AND 50).

CLASS 38—COMMUNICATION

FOR RADIO AND TELEVISION BROADCASTING SERVICES RELATING TO HORSE RACING AND RIDING, GAMING AND GAMBLING, TRAVEL, FASHION, BRITISH HISTORY AND CULTURE; RADIO AND TELEVISION BROADCASTING SERVICES PROVIDED VIA GLOBAL COMPUTER NETWORKS AND INTER-COMPUTER COMMUNICATIONS NETWORKS; TELECOMMUNICATIONS SERVICES NAMELY, PERSONAL COMMUNICATION SERVICES (U.S. CLS. 100, 101 AND 104).

CLASS 41—EDUCATION AND ENTERTAINMENT

FOR INTERACTIVE ENTERTAINMENT SERVICES, NAMELY, ON-LINE GAMBLING; AND ENTERTAINMENT SERVICES, NAMELY, PROVIDING RADIO OR TELEVISION PROGRAMMING THAT CONTAINS COVERAGE OF HORSE RACING AND RIDING, GAMING AND GAMBLING, TRAVEL, FASHION, BRITISH HISTORY AND CULTURE (U.S. CLS. 100, 101 AND 107).

SN 75-341,906, BRITISH BROADCASTING CORPORATION, THE, LONDON W1A 1AA, ENGLAND, FILED 8-15-1997.

BEEB

PRIORITY CLAIMED UNDER SEC. 44(D) ON UNITED KINGDOM APPLICATION NO. 2130242, FILED 4-21-1997, REG. NO. 1301604, DATED 2-20-1987, EXPIRES 4-21-2007.

CLASS 9—ELECTRICAL AND SCIENTIFIC APPARATUS

FOR COMPUTERS, COMPUTER PERIPHERAL DEVICES, NAMELY, DISK DRIVES, CAMERAS, LOUD SPEAKERS, MODEMS AND PRINTERS; COMMUNICATIONS APPARATUS, NAMELY, TELEPHONES; SOUND, VIDEO AND DATA RECORDING AND REPRODUCING APPARATUS, NAMELY, AUDIO CASSETTE RECORDERS, VIDEO CASSETTE RECORDERS AND COMPACT DISC RECORDERS; COMPUTER GAME AND VIDEO GAME EQUIPMENT, NAMELY, COMPUTER GAME PROGRAMS, SOFTWARE, DISCS, CASSETTES AND TAPES FOR USE WITH A TELEVISION SCREEN OR VIDEOMONITOR; VIDEO GAME MACHINES FOR USE WITH TELEVISIONS; COMPUTER SOFTWARE FOR ON-LINE INFORMATION, ENTERTAINMENT AND EDUCATION ON A COMPUTER NETWORK; COMPUTER GAMES PROGRAMS; VIDEO GAME PROGRAMS; VIDEO GAME CARTRIDGES FOR USE WITH ELECTRONIC GAMES APPARATUS; INTERACTIVE ENTERTAINMENT SOFTWARE, NAMELY, SOFTWARE FOR PLAYING INTERACTIVE GAMES; COMPUTER SOFTWARE FOR RECEIVING, PROCESSING AND DISPLAYING AUDIO, VIDEO, TEXT AND GRAPHICS TRANSMITTED VIA A COMPUTER OR COMMUNICATIONS NETWORK; SOUND AND VIDEO RECORDINGS FEATURING RADIO AND TELEVISION PROGRAMMES, SPORTS, LEISURE, SCIENCE AND TECHNOLOGY, MOTORING, RELIGION, MUSIC, NEWS, COMEDY, DOCUMENTARIES, LAW, CRIME, CARTOONS, ANIMATION, GAMES, QUIZZES, COOKERY, DRAMA, NATURE, GARDENING, POLITICS, ARTS, CULTURE AND EDUCATION FOR CHILDREN, STUDENTS AND ADULTS; COMPUTER SOFTWARE FOR ACCESSING COMPUTER COMMUNICATIONS NETWORKS; MUSICAL SOUND AND VIDEO RECORDINGS; CINEMATOGRAPHIC AND PHOTOGRAPHIC, MOTION PICTURE FILMS, PRERECORDED VIDEO TAPES AND DISCS FEATURING OR RELATING TO TELEVISION AND RADIO PROGRAMMES PERTAINING TO SPORTS, LEISURE, SCIENCE AND TECHNOLOGY, MOTORING, RELIGION, MUSIC, NEWS, COMEDY, DOCUMENTARIES, LAW, CRIME, CARTOONS, ANIMATION, GAMES, QUIZZES, COOKERY, DRAMA, NATURE, GARDENING, POLITICS, ARTS, CULTURE AND EDUCATION FOR CHILDREN, STUDENTS AND ADULTS; MUSICAL SOUND RECORDINGS, NAMELY, PHONOGRAPH RECORDS, COMPACT DISCS, TAPES, CASSETTES, CARTRIDGES AND MAGNETIC CODED SOUND CARDS; COMPUTER HARDWARE, NAMELY, MEMORY CARDS; ELECTRICALLY, MAGNETICALLY OR OPTICALLY RECORDED DATA THAT IS RECORDED ON MAGNETIC CARDS, CD'S AND MAGNETIC TAPES, FEATURING INFORMATION ABOUT OR RELATING TO RADIO AND TELEVISION PROGRAMMES, SPORTS, LEISURE, SCIENCE AND TECHNOLOGY, MOTORING, RELIGION, MUSIC, NEWS, COMEDY, DOCUMENTARIES, LAW, CRIME, CARTOONS, ANIMATION, GAMES, QUIZZES, COOKERY, DRAMA, NATURE, GARDENING, POLITICS, ARTS, CULTURE, AND PRESCHOOL, PRIMARY, SECONDARY, TRADE, COLLEGE, UNIVERSITY AND POST GRADUATE EDUCATION FOR CHILDREN, STUDENTS AND ADULTS; INTERACTIVE COMPACT DISCS AND CD-ROMS FEATURING OR RELATING TO RADIO AND TELEVISION PROGRAMMES FEATURING SPORTS, LEISURE, SCIENCE AND TECHNOLOGY, MOTORING, RELIGION, MUSIC, NEWS, COMEDY, DOCUMENTARIES, LAW, CRIME, CARTOONS, ANIMATION, GAMES, QUIZZES, COOKERY, DRAMA, NATURE, GARDENING, POLITICS, ARTS, CULTURE, AND EDUCATION FOR CHILDREN, STUDENTS AND ADULTS; INTERACTIVE COMPACT DISCS AND CD-ROMS FEATURING MUSIC AND GAME SOFTWARE; COMPUTER MOUSE PADS; PARTS FOR ALL THE AFORESAID GOODS (U.S. CLS. 21, 23, 26, 36 AND 38).

CLASS 25—CLOTHING

FOR CLOTHING, NAMELY, UNDERWEAR, COATS, JACKETS, SUITS, SKIRTS, DRESSES, JUMPERS, PULL-OVERS, BLOUSES, TROUSERS, SLACKS, JEANS, SHORTS, DUNGAREES, SHIRTS, T-SHIRTS, SWEAT-SHIRTS, SWEATERS, SPORTS JERSEYS, SPORTS PANTS, SMOCKS, WAISTCOATS, HATS, STOCKINGS, NECK-TIES, SCARVES, HEADBANDS, WRISTBANDS, APRONS, JEANS, CAPS, BERETS, TIGHTS, BELTS, SOCKS, SUSPENDERS, GLOVES, SWIMWEAR AND BEACHWEAR, PAJAMAS, NIGHTDRESSES, DRESSING GOWNS, BATHING AND SHOWER CAPS, BATH ROBES, BATH SANDALS AND BATH SLIPPERS, CLOTHING FOR BABIES AND FOR TODDLERS, NAMELY, BIBS, SHIRTS, PANTS, DRESSES, SHORTS, SKIRTS, SUITS, JACKETS, COATS, CAPS, AND HATS; TEXTILE DIAPERS FOR BABIES; OVERALLS; FOOTWEAR; HEADWEAR; AND HALLOWEEN COSTUMES (U.S. CLS. 22 AND 39).

CLASS 28—TOYS AND SPORTING GOODS

FOR GAMES, NAMELY, BOARD GAMES, CARD GAMES, RING GAMES, PARLOR GAMES, CHESS GAMES, ROLE-PLAYING GAMES; TOYS AND PLAYTHINGS, NAMELY, CHESS BOARDS, MARBLES FOR GAMES, TOY MOBILES, TOY PISTOLS, DICE FOR GAMES, PLAY BALLOONS, BALLS FOR GAMES, TOY BUILDING BLOCKS, SOFT SCULPTURE PLUSH TOYS, DOLLS, DOLLS HOUSES, DOMINOES, BUBBLE MAKING WAND AND SOLUTION SETS, PUPPETS, MARIONETTES, SPINNING TOP TOYS, TOY COSTUME MASKS, TOY VEHICLES, MODEL VEHICLES, INFANT TOYS, INFLATABLE TOYS, RIDE-ON TOYS, WATER SQUIRTING TOYS, KITES, GYMNASIAC AND SPORTING ARTICLES, NAMELY, BASEBALL GLOVES, HANDBALL GLOVES, GOLF GLOVES, GOLF BAGS, CRICKET BAGS, GOLF CLUBS, SKATEBOARDS, ROLLER SKATES, MACHINES FOR PHYSICAL EXERCISE, NAMELY, POWERED TREAD MILLS FOR RUNNING, EXERCISE MACHINES AND WEIGHT LIFTING BENCHES; BASEBALL BATS, CRICKET BATS, TENNIS AND SQUASH RACKETS; CHRISTMAS TREE ORNAMENTS AND DECORATIONS EXCEPT CONFECTIONERY AND ILLUMINATION ARTICLES; PRACTICAL JOKES AND NOVELTIES, NAMELY, HAND BUZZERS AND WHOOPEE CUSHIONS; COIN-OPERATED VIDEO GAMES, ARCADE GAMES, AND HAND HELD UNITS FOR PLAYING GAMES (U.S. CLS. 22, 23, 38 AND 50).

CLASS 35—ADVERTISING AND BUSINESS

FOR LICENSING OF COMPUTER SOFTWARE; MANAGEMENT FOR OTHERS OF COMPUTER DATABASES FEATURING EDUCATION, ENTERTAINMENT AND INFORMATION ON VARIOUS TOPICS; BUSINESS INFORMATION, NAMELY, PROVIDING INFORMATION ABOUT GOODS AVAILABLE VIA ON-LINE RETAIL STORE SERVICES AND BUSINESSES ASSOCIATED THEREWITH; RENTAL OF ADVERTISING SPACE; DISSEMINATION OF ADVERTISING FOR OTHERS VIA AN ON-LINE ELECTRONIC COMMUNICATIONS NETWORK; BUSINESS MANAGEMENT; BUSINESS MERCHANDISING DISPLAY SERVICES ALL RELATING TO MAIL ORDER, OR SHOPPING VIA COMPUTER NETWORK; PROVIDING ON-LINE AND TELEVISION ADVERTISING FOR OTHERS; PROMOTING THE SALE OF CREDIT CARD ACCOUNTS THROUGH THE ADMINISTRATION OF INCENTIVE AWARD PROGRAMS; ON-LINE RETAIL STORE SERVICES FEATURING CLOTHING, EDUCATIONAL AND LANGUAGE TEACHING MATERIALS, SOUND AND VIDEO RECORDINGS, BOOKS, MAGAZINES, GAMES AND TOYS, AND MERCHANDISE RELATED TO RADIO AND TELEVISION PROGRAMMES (U.S. CLS. 100, 101 AND 102).

CLASS 36—INSURANCE AND FINANCIAL

FOR FINANCIAL SERVICES, NAMELY, FOREIGN CURRENCY DEALING AND TRADING SERVICES, CURRENCY CHECK AND TRAVELERS CHECK CONVERSION SERVICES, PROVISION OF FUNDS FOR INVESTMENT AND ADVISORY AND CONSULTATION SERVICES RELATING THERETO; FINANCIAL INFORMATION PROVIDED BY ELECTRONIC MEANS; INVESTMENT ADVICE; CURRENCY EXCHANGE AND ADVICE; CHARITABLE FUND RAISING; CREDIT CARD AND DEBIT CARD SERVICES; AND CREDIT AND DEBIT CARD TRANSACTION PROCESSING SERVICES (U.S. CLS. 100, 101 AND 102).

CLASS 38—COMMUNICATION

FOR AUDIO BROADCASTING; CABLE TELEVISION BROADCASTING; SUBSCRIPTION TELEVISION BROADCASTING; TELEVISION BROADCASTING; INTERACTIVE TELEVISION AND RADIO BROADCASTING; VIDEO BROADCASTING; RADIO BROADCASTING; CABLE RADIO BROADCASTING; ELECTRONIC TRANSMISSION OF MESSAGES AND DATA; ELECTRONIC TRANSMISSION OF INFORMATION, TEXT, SOUND AND IMAGES; SATELLITE TRANSMISSION SERVICES; CABLE RADIO TRANSMISSION; BROADCASTING AND TRANSMISSION OF RADIO AND TELEVISION PROGRAMMES VIA COMPUTER OR COMMUNICATIONS NETWORKS; CABLE TELEVISION TRANSMISSION; VIDEO-ON-DEMAND TRANSMISSION SERVICES; ELECTRONIC MAIL SERVICES; TELETEXT SERVICES; ELECTRONIC TRANSMISSION OF DATA AND DOCUMENTS VIA COMPUTER TERMINALS; COMPUTER-AIDED TRANSMISSION OF INFORMATION, MESSAGES, TEXT, SOUND, IMAGES AND RADIO AND TELEVISION PROGRAMMES; TRANSMISSION OF TEXT, MESSAGES, INFORMATION, SOUND, IMAGES AND DATA BY METAL OR OPTICAL TELEPHONE LINES; PROVIDING TELECOMMUNICATIONS CONNECTIONS TO A GLOBAL COMPUTER NETWORK; TELECOMMUNICATIONS GATEWAY SERVICES FOR ACCESS TO A COMMUNICATIONS OR COMPUTER NETWORK; TELEPHONE COMMUNICATIONS; RENTAL OF TELEPHONES AND TELEPHONE EQUIPMENT; AND INFORMATION SERVICES RELATED TO THE AFORESAID SERVICES (U.S. CLS. 100, 101 AND 104).

CLASS 39—TRANSPORTATION AND STORAGE

FOR TRANSPORTATION AND TRAVEL SERVICES, NAMELY, TRAVEL INFORMATION SERVICES; PACKAGING ARTICLES FOR TRANSPORTATION; ELECTRONIC STORAGE AND DELIVERY OF MESSAGES AND DATA; WAREHOUSE STORAGE; PARCEL DELIVERY; POSTAL SERVICES, NAMELY, PARCEL DELIVERY OF MAIL ORDER GOODS FOR OTHERS; DELIVERY OF GOODS BY TRUCK, AIR, AND SHIP; INFORMATION SERVICES RELATING TO THE AFORESAID SERVICES (U.S. CLS. 100 AND 105).

CLASS 41—EDUCATION AND ENTERTAINMENT

FOR ENTERTAINMENT, EDUCATION AND INSTRUCTION BY OR RELATING TO RADIO AND TELEVISION PROGRAMMES, NAMELY, PRODUCTION OF SOUND AND VIDEO RECORDINGS, MOTION PICTURE FILMS, TELEVISION AND RADIO PROGRAMMES; ENTERTAINMENT IN THE NATURE OF ON-GOING RADIO AND TELEVISION PROGRAMS FEATURING SPORTS, LEISURE, SCIENCE AND TECHNOLOGY, MOTORING, RELIGION, MUSIC, NEWS, COMEDY, DOCUMENTARIES, LAW, CRIME, CARTOONS, ANIMATION, GAMES, QUIZZES, COOKERY, DRAMA, NATURE, GARDENING, POLITICS, ARTS, CULTURE, AND EDUCATION FOR CHILDREN, STUDENTS AND ADULTS; PROVIDING ON-LINE ENTERTAINMENT IN THE NATURE OF A WEB SITE FEATURING SPORTS, LEISURE, SCIENCE AND TECHNOLOGY, MOTORING, RELIGION, MUSIC, NEWS, COMEDY, DOCUMENTARIES, LAW, CRIME, CARTOONS, ANIMATION, GAMES, QUIZZES, COOKERY, DRAMA, NATURE, GARDENING, POLITICS, ARTS, CULTURE, AND EDU-

CATION FOR CHILDREN, STUDENTS AND ADULTS; ENTERTAINMENT SERVICES, NAMELY, PROVIDING ON-LINE RADIO AND TELEVISION PROGRAMMES FEATURING SPORTS, LEISURE, SCIENCE AND TECHNOLOGY, MOTORING, RELIGION, MUSIC, NEWS, COMEDY, DOCUMENTARIES, LAW, CRIME, CARTOONS, ANIMATION, GAMES, QUIZZES, COOKERY, DRAMA, NATURE, GARDENING, POLITICS, ARTS, CULTURE, AND EDUCATION FOR CHILDREN, STUDENTS AND ADULTS; SCHEDULING CABLE TELEVISION PROGRAMMING; ENTERTAINMENT IN THE NATURE OF THE ORGANIZING FESTIVALS, GAMES, QUIZZES, FUN DAYS, SPORTING EVENTS, SHOWS, ROAD SHOWS, STAGED EVENTS, THEATRICAL PERFORMANCES, CONCERTS, LIVE PERFORMANCES AND AUDIENCE PARTICIPATION EVENTS, ALL RELATING TO OR FEATURING RADIO AND TELEVISION PROGRAMMES; DISTRIBUTION OF TELEVISION PROGRAMMING TO CABLE, TERRESTRIAL AND SATELLITE TELEVISION SYSTEMS; RENTAL OF MOTION PICTURE FILMS; RENTAL OF SOUND RECORDINGS, VIDEOTAPES, COMPUTER GAMES, INTERACTIVE COMPACT DISCS AND CD-ROMS FEATURING OR RELATING TO RADIO AND TELEVISION PROGRAMMES, SPORTS, LEISURE, SCIENCE AND TECHNOLOGY, MOTORING, RELIGION, MUSIC, NEWS, COMEDY, DOCUMENTARIES, LAW, CRIME, CARTOONS, ANIMATION, GAMES, QUIZZES, COOKERY, DRAMA, NATURE, GARDENING, POLITICS, ARTS, CULTURE, AND EDUCATION FOR CHILDREN, STUDENTS AND ADULTS; PROVIDING A WEB SITE OF INFORMATION RELATING TO EDUCATION AND ENTERTAINMENT, ALL RELATING TO OR FEATURING RADIO AND TELEVISION PROGRAMMES, SPORT, LEISURE, SCIENCE AND TECHNOLOGY, MOTORING, RELIGION, MUSIC, NEWS, COMEDY, DOCUMENTARIES, LAW, CRIME, CARTOONS, ANIMATION, GAMES, QUIZZES, COOKERY, DRAMA, NATURE, GARDENING, POLITICS, ARTS, CULTURE, AND EDUCATION FOR CHILDREN, STUDENTS AND ADULTS; COMPUTER EDUCATION TRAINING SERVICES; EDUCATIONAL SERVICES, NAMELY, PROVIDING COURSES OF INSTRUCTION FOR TEACHING OTHERS HOW TO ACCESS COMPUTER NETWORKS AND THE GLOBAL COMPUTER NETWORK; RENTAL OF EDUCATIONAL INSTRUCTIONAL MATERIALS, NAMELY, BOOKS, HANDBOOKS, TEXTBOOKS, TEACHER'S HANDBOOKS, STUDY GUIDES, REVISION GUIDES, FACT SHEETS, SOUND AND VIDEO RECORDINGS, INTERACTIVE COMPACT DISCS, AND CD-ROMS; ELECTRONIC PUBLISHING SERVICES, NAMELY, PUBLICATION OF TEXT AND GRAPHIC WORKS OF OTHERS ON CD-ROMS FEATURING OR RELATING TO RADIO AND TELEVISION PROGRAMMES; PUBLICATION OF MAGAZINES AND BOOKS; ORGANIZING EXHIBITIONS FOR ENTERTAINMENT, EDUCATIONAL, CULTURAL AND SPORTING PURPOSES; PROVISION OF INFORMATION RELATING TO THE AFORESAID SERVICES (U.S. CLS. 100, 101 AND 107).

CLASS 42—SCIENTIFIC, COMPUTER AND LEGAL SERVICES

FOR COMPUTER CONSULTATION SERVICES; COMPUTER SERVICES RELATING TO COMMUNICATIONS AND COMPUTER NETWORKS, NAMELY, DEVELOPING SOFTWARE FOR OTHERS, COMPUTER PROGRAMMING FOR OTHERS, COMPUTER CONSULTATION SERVICES RELATING TO ASSISTING OTHERS IN ACCESSING THE GLOBAL COMPUTER NETWORK; LEASING ACCESS TIME TO A COMPUTER DATABASE RELATING TO FOOD, BEVERAGES, RESTAURANTS, HOTELS, HEALTH, MEDICINE, BEAUTY CARE, LAW, HISTORY, POLITICS, NEWS, SCIENCE, ENGINEERING, DESIGN, AGRICULTURE, GEOGRAPHY, NATURAL HISTORY, THE ENVIRONMENT, WEATHER, FASHION, GARDENING, CHILD CARE, PHOTOGRAPHY AND CAREERS; RENTAL OF COMPUTER PROGRAMS; PROVIDING MULTIPLE-USER ACCESS TO A GLOBAL COMPUTER INFORMATION NETWORK FOR THE TRANSFER AND DISSEMINATION OF A WIDE RANGE OF INFORMATION; COMPUTER SERVICES, NAMELY, DESIGNING AND IMPLEMENTING NETWORK WEB PAGES FOR OTHERS; COMPUTER SERVICES, NAMELY, DESIGNING AND IMPLEMENTING WEB SITES FOR OTHERS; HOSTING THE WEB SITES OF OTHERS ON A COMPUTER SERVER FOR A GLOBAL COMPUTER NETWORK;

RENTAL OF COMPUTER SOFTWARE AND COMPUTERS; PROVIDING MULTIPLE-USER ACCESS TO A GLOBAL COMPUTER INFORMATION NETWORK FOR THE TRANSFER AND DISSEMINATION OF INFORMATION RELATING TO FOOD, BEVERAGES, RESTAURANTS, HOTELS, HEALTH, MEDICINE, BEAUTY CARE, LAW, HISTORY, POLITICS, NEWS, SCIENCE, ENGINEERING, DESIGN, AGRICULTURE, GEOGRAPHY, NATURAL HISTORY, THE ENVIRONMENT, WEATHER, FASHION, GARDENING, CHILD CARE, PHOTOGRAPHY AND CAREERS; NEWS AGENCIES, NAMELY, GATHERING AND DISSEMINATION OF NEWS (U.S. CLS. 100 AND 101).

CLASS 41—EDUCATION AND ENTERTAINMENT

FOR PRODUCTION AND DISTRIBUTION OF INDEPENDENT FILMS FOR DOMESTIC AND INTERNATIONAL THEATRICAL RELEASE; CABLE TELEVISION PROGRAMMING SERVICES IN CONNECTION WITH THE EXHIBITION OF INDEPENDENT FILMS; A CONTINUING SERIES OF TELEVISION PROGRAMS FEATURING INDEPENDENT FILMS (U.S. CLS. 100, 101 AND 107).

SN 75-407,451. SUEZ-LYONNAISE DES EAUX. 92000 NANTERRE, FRANCE, FILED 12-18-1997.

ASTRAN

OWNER OF FRANCE REG. NO. 97706488, DATED 11-28-1997, EXPIRES 11-28-2007.

CLASS 11—ENVIRONMENTAL CONTROL APPARATUS

FOR UNITS FOR TREATING, PURIFYING, STERILIZING AND REGENERATING WATER (U.S. CLS. 13, 21, 23, 31 AND 34).

CLASS 40—MATERIAL TREATMENT

FOR WATER TREATMENT AND PURIFYING (U.S. CLS. 100, 103 AND 106).

CLASS 42—SCIENTIFIC, COMPUTER AND LEGAL SERVICES

FOR TECHNICAL CONSULTATION AND RESEARCH IN THE FIELDS OF WATER TREATMENT, WATER DISTRIBUTION AND THE ENVIRONMENT (U.S. CLS. 100 AND 101).

SN 75-425,521. SUNDANCE ENTERPRISES, INC., SUNDANCE, UT. FILED 1-29-1998.

SUNDANCE CHANNEL PICTURES

OWNER OF U.S. REG. NOS. 1,431,477, 2,147,141 AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CHANNEL PICTURES", APART FROM THE MARK AS SHOWN.

CLASS 38—COMMUNICATION

FOR TELEVISION BROADCASTING FEATURING THE EXHIBITION OF INDEPENDENT FILMS; VIDEO ON DEMAND TRANSMISSION SERVICES OVER BROADCAST TELEVISION, CABLE TELEVISION AND PAY TELEVISION IN THE FIELD OF INDEPENDENT FILMS (U.S. CLS. 100, 101 AND 104).

CLASS 41—EDUCATION AND ENTERTAINMENT

FOR PRODUCTION AND DISTRIBUTION OF INDEPENDENT FILMS FOR DOMESTIC AND INTERNATIONAL THEATRICAL RELEASE; CABLE TELEVISION PROGRAMMING SERVICES IN CONNECTION WITH THE EXHIBITION OF INDEPENDENT FILMS; A CONTINUING SERIES OF TELEVISION PROGRAMS FEATURING INDEPENDENT FILMS (U.S. CLS. 100, 101 AND 107).

SN 75-425,520. SUNDANCE ENTERPRISES, INC., SUNDANCE, UT. FILED 1-29-1998.

SUNDANCE CHANNEL PRESENTS....

OWNER OF U.S. REG. NOS. 1,431,477, 2,147,141 AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CHANNEL", APART FROM THE MARK AS SHOWN.

CLASS 38—COMMUNICATION

FOR TELEVISION BROADCASTING FEATURING THE EXHIBITION OF INDEPENDENT FILMS; VIDEO ON DEMAND TRANSMISSION SERVICES OVER BROADCAST TELEVISION, CABLE TELEVISION AND PAY TELEVISION IN THE FIELD OF INDEPENDENT FILMS (U.S. CLS. 100, 101 AND 104).

SN 75-425,893. SUNDANCE ENTERPRISES, INC., SUNDANCE, UT. FILED 1-29-1998.

SUNDANCE CHANNEL PRODUCTIONS

OWNER OF U.S. REG. NOS. 1,431,477, 2,147,141 AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CHANNEL PRODUCTIONS", APART FROM THE MARK AS SHOWN.

CLASS 38—COMMUNICATION

FOR TELEVISION BROADCASTING FEATURING THE EXHIBITION OF INDEPENDENT FILMS; VIDEO ON DEMAND TRANSMISSION SERVICES OVER BROADCAST TELEVISION, CABLE TELEVISION AND PAY TELEVISION IN THE FIELD OF INDEPENDENT FILMS (U.S. CLS. 100, 101 AND 104).

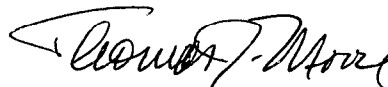
**MOTION TO DISMISS
AND FOR CORRECTED PUBLICATION
Proceeding No. 91158776**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this document is being served on Opposer by mailing it by first class U.S. mail on the undersigned date addressed to the attorney of record for Opposer as follows:

J. Michael Hurst
DINSMORE & SHOHL LLP
1900 Chemed Center
255 East Fifth Street
Cincinnati, Ohio 45202

Date: February 9, 2004

A handwritten signature in black ink, appearing to read "Thomas J. Moore", with a stylized flourish at the end.

Thomas J. Moore